

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

A HUNDRED MONKEYS INC.,

Plaintiff,

Case No.

v.

100 MONKEYS, INC.,

Defendant.

COMPLAINT

Plaintiff A Hundred Monkeys Inc., by its attorneys Michael Best & Friedrich LLP, complaining of defendants herein, allege as follows:

NATURE OF THE ACTION

1. This action is for: (1) trademark infringement under section 32 of the Lanham Act (15 U.S.C. § 1114(1)); (2) trademark infringement, false designation of origin and unfair competition under section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)); and (3) common law trademark infringement and unfair competition under Wisconsin law.

PARTIES

2. Plaintiff A Hundred Monkeys Inc. ("Plaintiff") is a California corporation having its principal place of business at 332 Miller Avenue, Mill Valley, California, 94941. Plaintiff provides marketing and branding consultation services throughout the United States and worldwide.

3. Upon information and belief, Defendant 100 Monkeys, Inc. ("Defendant") is a Wisconsin corporation having its principal place of business at 7845 Harwood Avenue, Wauwatosa, Wisconsin, 53213. Upon information and belief, Defendant provides marketing and

branding consultation services throughout the United States, including within this District, and on the Internet through Defendant's website, www.100monkeyspr.com. Upon information and belief, Defendant is a direct competitor of Plaintiff.

JURISDICTION AND VENUE

4. Subject matter jurisdiction is expressly conferred on this Court under 15 U.S.C. §§ 1121 and 28 U.S.C. §§ 1331 and 1338(a). The Court has pendent jurisdiction over the Wisconsin common law trademark infringement and unfair competition claims.

5. Personal jurisdiction over Defendant is vested in this Court since Defendant resides in this District and has committed one or more of the acts complained herein within this District.

6. Venue is proper in this Court pursuant to 28 USC §§1391 (b) and (c) because Defendant resides in this District and a substantial part of the activity complained of occurred in this District, and Defendant is subject to personal jurisdiction herein.

BACKGROUND

7. Plaintiff has used its name and service mark A HUNDRED MONKEYS throughout the United States since March of 1992, providing marketing, branding and naming services to iconic businesses such as Coca Cola, Nike, Hewlett Packard, The Mellon Foundation, NetJets, Microsoft and many others.

8. Plaintiff owns a federal registration, Reg. No. 2,279,356, for the mark A HUNDRED MONKEYS (the "Mark") for business marketing and business communication consulting services, namely developing product and company names and developing marketing campaigns. Attached as Exhibit A is a true and correct copy of the registration certificate and

assignment for the Mark.

9. The registration is incontestable under 15 U.S.C. § 1115(b) and constitutes conclusive evidence of Plaintiff's exclusive right to use the registered Mark under 15 U.S.C. § 1115(b). Further, as owner of the registration for the Mark, Plaintiff has the exclusive right to control use of the mark in commerce in connection with business marketing and business communication consulting services.

10. Plaintiff has expended a great deal of time, effort and money in the promotion and advertisement of its services under the Mark.

11. As a result of Plaintiff's substantial and extensive advertising and distribution of services offered under the Mark, Plaintiff has acquired valuable goodwill in the Mark and the Mark indicates that Plaintiff is the source of the highest quality marketing and communication consulting services. Attached as Exhibit B are examples of promotional materials featuring the Mark.

12. Upon information and belief, notwithstanding Plaintiff's prior, continuous and extensive use of the Mark, Defendant began using and continues to use the mark 100 MONKEYS for marketing and branding services. Defendant now advertises such services on a national basis via the Internet, including in Wisconsin and California. Attached as Exhibit C are true and correct copies of pages from Defendant's website, www.100monkeyspr.com.

13. As a result of Defendant's misuse of the Mark and colorable imitations thereof, customers and potential customers are likely to be confused into believing that Defendant's services and its website are authorized by Plaintiff and that Defendant is licensed or otherwise sponsored by or associated with Plaintiff.

14. Defendant has used the Mark and colorable imitations thereof and engaged in a pattern of unfair competition and deceit with the intent to trade on Plaintiff's reputation and goodwill, to hold itself out to the public as authorized by Plaintiff, and to pass off Defendant's services as originating with or authorized by Plaintiff.

15. Defendant's unauthorized use of the Mark or colorable imitations thereof is intentionally designed to confuse and deceive customers and potential customers and to divert business and goodwill from Plaintiff.

16. Defendant's acts as described herein have damaged and will continue to damage Plaintiff and have caused and will cause irreparable harm to Plaintiff unless enjoined.

17. Plaintiff did not grant Defendant authority or permission to use the Mark or colorable imitations thereof and, upon information and belief, Defendant began using the Mark or colorable imitations thereof with full knowledge of Plaintiff's prior rights in the Mark.

18. Defendant has actual knowledge of its trademark infringement, false designation and unfair competition. Plaintiff has complained about Defendant's unauthorized use of the Mark and colorable imitations therefore and demanded that Defendant cease and desist such conduct, but Defendant has wilfully continued to offer services under the Mark or colorable imitations thereof. The result has been irreparable harm to Plaintiff's reputation and goodwill and actual deception of and damage to consumers. Attached as Exhibit D is a true and correct copy of Plaintiff's cease and desist letter to Defendant dated May 19, 2009.

FIRST CAUSE OF ACTION
Trademark Infringement, False Designation and Unfair Competition
Under Lanham Act § 43(a), 15 U.S.C. § 1125(a)

19. Plaintiff realleges and incorporates by reference each and every allegation of paragraphs 1 through 18 as if fully set forth herein.

20. Defendant's use of the Mark or colorable imitations thereof is likely to cause confusion, mistake, or deception as to the source, origin, affiliation, connection or association of Defendant's services with Plaintiff, or as to the approval of Defendant's services by Plaintiff, and thus constitute trademark infringement, false designation of origin, and unfair competition with respect to Plaintiff's Mark in violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

21. Defendant's actions have taken place with full knowledge of Plaintiff's Mark and, therefore, have been intentional, deliberate and willful.

22. As a direct and proximate result of the actions of Defendant alleged above, Plaintiff has been damaged and will continue to be damaged.

SECOND CAUSE OF ACTION
Trademark Infringement Under
Lanham Act § 43(a), 15 U.S.C. § 1114

23. Plaintiffs reallege and incorporate by reference each and every allegation of paragraphs 1 through 22 as if fully set forth herein.

24. Defendant's use of the Mark or colorable imitations thereof is likely to cause confusion, mistake, or deception as to the source, origin, affiliation, connection, or association of Defendant's services with Plaintiff, or as to the approval of Defendant's services by Plaintiff, and thus constitute infringement of Plaintiff's Mark in violation of Section 32 of the Lanham Act, 15

U.S.C. § 1114.

25. Defendant's infringement of Plaintiff's Mark has taken place with full knowledge of Plaintiff's registered Marks and, therefore, has been intentional, deliberate and willful.

26. As a direct and proximate result of the actions of Defendant alleged above, Plaintiff has been damaged and will continue to be damaged.

THIRD CAUSE OF ACTION
Common Law Trademark Infringement

27. Plaintiff realleges and incorporates by reference each and every allegation of paragraphs 1 through 26 as if fully set forth herein.

28. The acts of Defendant complained of herein constitute common law trademark infringement and unfair competition under the laws of the State of Wisconsin.

29. Defendant's actions have taken place with full knowledge of Plaintiff's Mark and, therefore, have been intentional, deliberate and willful.

30. As a direct and proximate result of the actions of Defendant alleged above, Plaintiff has been damaged and will continue to be damaged.

JURY DEMAND

Plaintiff A Hundred Monkeys Inc. demands a trial by jury on all matters and issues triable by jury.

PRAYER FOR RELIEF

WHEREFORE, A Hundred Monkeys Inc. demands judgment in its favor on each and every claim for relief set forth above and an award for relief including, but not limited to, the following:

1. An injunction permanently enjoining Defendant and its employees, agents, partners, officers, directors, owners, shareholders, principals, subsidiaries, related companies, affiliates, joint ventures, distributors, dealers, and all persons in active concert or participation with any of them:
 - a. Using the A HUNDRED MONKEYS Mark; any variations thereof, including the 100 MONKEYS mark, "100 Monkeys," "a hundred monkeys" or "one hundred," "100," or "Monkeys" either alone or in conjunction with any other word(s); or any other colorable imitation of the A HUNDRED MONKEYS Mark that is likely to cause confusion with the Mark or any other trademark owned by Plaintiff;
 - b. From manufacturing, distributing, promoting, and selling any materials bearing the Mark; any variations thereof, including the 100 MONKEYS mark, "100 Monkeys," "a hundred monkeys" or "one hundred," "100," or "Monkeys" either alone or in conjunction with any other word(s); any other trademark owned by Plaintiff; and any other marks that are likely to cause confusion with the Mark or any other trademark owned by Plaintiff;
 - c. From representing by any means whatsoever, directly or indirectly, that Defendant, any products or services offered by Defendant, or any activities undertaken by Defendant, are sponsored or licensed by Plaintiff or otherwise associated or connected in any way with Plaintiff; and
 - d. Passing off any of its products or services as originating with, associated with or sponsored by Plaintiff.
2. An Order requiring Defendant to deliver up to Plaintiff for destruction all goods, advertisements, literature, packages, signs, catalogs, promotional materials and other written or printed material, any other material for producing, printing,

copying or distributing such items in the possession of Defendant, which bear the A HUNDRED MONKEYS Mark; any variations thereof, including the 100 MONKEYS mark, "100 Monkeys," "a hundred monkeys" or "one hundred," "100," or "Monkeys" either alone or in conjunction with any other word(s); or any other colorable imitation of the A HUNDRED MONKEYS Mark that is likely to cause confusion with the Mark or any other trademark owned by Plaintiff.

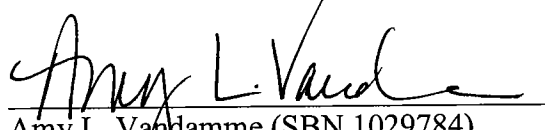
3. An Order directing Defendant to remove from all websites that it owns or controls, directly or indirectly, the A HUNDRED MONKEYS Mark; any variations thereof, including the 100 MONKEYS mark, "100 Monkeys," "a hundred monkeys" or "one hundred," "100," or "Monkeys" either alone or in conjunction with any other word(s); or any other colorable imitation of the A HUNDRED MONKEYS Mark that is likely to cause confusion with the Mark or any other trademark owned by Plaintiff.
4. An Order that Defendant notify its customers that the unauthorized 100 MONKEYS stationary, signs and promotional materials used by Defendant were in no way connected with Plaintiff and request that such customers should return all 100 MONKEYS signs and promotional materials to Plaintiff for destruction or other disposition at Plaintiff's sole discretion.
5. An Order directing Defendant to file with this Court and serve on Plaintiff's attorneys, thirty (30) days after the date of entry of any injunction, a report in writing and under oath setting forth in detail the manner and form in which it has

complied with the injunction;

6. An Order requiring Defendant to account for and pay to Plaintiff any and all profits arising from the foregoing acts of infringement, false designation of origin, and unfair competition, and trebling such profits in accordance with 15 U.S.C. § 1117 and other applicable statutes and laws.
7. An Order requiring Defendant to pay to Plaintiff compensatory damages in an amount as yet undetermined caused by the foregoing acts of infringement, false designation of origin, and unfair competition, and trebling such compensatory damages in accordance with 15 U.S.C. § 1117 and other applicable statutes and laws.
8. An Order requiring Defendant to pay to Plaintiff punitive damages due to Defendant's intentional violation of Plaintiff's rights with prior knowledge of Plaintiff's ownership and Defendant's false representations to, and deception of, the public in an amount as yet undetermined.
9. An Order requiring Defendant to pay Plaintiff's costs and attorney's fees in this action pursuant to 15 U.S.C. § 1117 and other applicable statutes and laws.
10. Other relief as this Court deems just and equitable.

Dated this 23rd day of September, 2009.

MICHAEL BEST & FRIEDRICH LLP

A handwritten signature in black ink, appearing to read "Amy L. Vandamme", is written over a horizontal line.

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Milwaukee, WI 53202-4108

Telephone: (414) 271-6560

Facsimile: (414) 277-0656

Attorneys for A Hundred Monkeys Inc.

T:\CLIENTA\027463\0001\A3490182.3

EXHIBIT A

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,279,356

United States Patent and Trademark Office

Registered Sep. 21, 1999

**SERVICE MARK
PRINCIPAL REGISTER**

A HUNDRED MONKEYS

**ALTMAN, DANIEL (UNITED STATES CITI-
ZEN)
1229 WATERVIEW DRIVE
MILL VALLEY, CA 94941**

**FOR: BUSINESS MARKETING AND BUSI-
NESS COMMUNICATION CONSULTING SERV-
ICES, NAMELY DEVELOPING PRODUCT
AND COMPANY NAMES AND DEVELOPING**

**MARKETING CAMPAIGNS, IN CLASS 35 (U.S.
CLS. 100, 101 AND 102).**

**FIRST USE 3-0-1992; IN COMMERCE
7-0-1993.**

SER. NO. 75-535,626, FILED 8-12-1998.

SUSAN STIGLITZ, EXAMINING ATTORNEY



United States Patent and Trademark Office

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Electronic Trademark Assignment System

Confirmation Receipt

Your assignment has been received by the USPTO.
 The coversheet of the assignment is displayed below:

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Daniel Altman		09/15/2009	INDIVIDUAL: UNITED STATES
RECEIVING PARTY DATA			
Name:	A Hundred Monkeys Inc.		
Street Address:	332 Miller Avenue		
City:	Mill Valley		
State/Country:	CALIFORNIA		
Postal Code:	94941		
Entity Type:	CORPORATION: CALIFORNIA		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	2279356	A HUNDRED MONKEYS	
CORRESPONDENCE DATA			
Fax Number:	(414)277-0656		
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>			
Phone:	414-271-6560		

Email:	mkeipdocket@michaelbest.com
Correspondent Name:	Amy L. Vandamme
Address Line 1:	100 East Wisconsin Avenue
Address Line 2:	Suite 3300
Address Line 4:	Milwaukee, WISCONSIN 53202
ATTORNEY DOCKET NUMBER:	027463-0001 US00
NAME OF SUBMITTER:	Jaime L. Trembl
Signature:	/jaime l. trembl/
Date:	09/15/2009
Total Attachments: 1 source=A3486361#page1.tif	
RECEIPT INFORMATION	
ETAS ID:	TM152756
Receipt Date:	09/15/2009
Fee Amount:	\$40

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EXHIBIT B

A HUNDRED MONKEYS

SHOW THE WORLD WHAT YOU'RE MADE OF.

[HOME](#)

[WHAT WE DO](#)

[PRODUCT NAMES](#)

[COMPANY NAMES](#)

[CLIENTS](#)

[CASE HISTORIES](#)

[IN THE NEWS](#)

[BLOG](#)

[TALK TO US](#)

What we do

A Hundred Monkeys is a branding company with a knack for coming up with names that are provocative and human...

- ➔ Product naming
- ➔ Company naming

- ➔ Brand strategy
- ➔ Brand building

Want a powerful brand?

Everything flows from who you are and your point of view about the world. If you want to have a powerful brand, you need to answer these fundamental questions. ➔ Who are we? ...



Our names

PRODUCT NAMES

98point6

Morning Glory

Open Book

Sledgehammer

Alphonse

COMPANY NAMES

Front Porch

Bright Black

Doodad

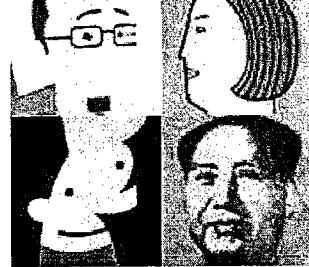
Ruckus

Little Engine

[MORE...](#)

[MORE...](#)

What our clients say



Blog: On the Button

23 September 2009 | Will Hollister? by Mars Riley
After 373 years, Harvard University has started to actively brand its name. One would think the world's most famous university wouldn't need to differentiate...

In the news



Case histories

Ben & Jerry's Ice Cream

On a crisp fall afternoon, Bob and I wandered into the deli across the street and found some new and very funky pints of ice cream. This merited further investigation ...

Our pitch



A name should be your best friend

Talk to the competition

FutureBrand	Nomino
Next Level	Brandslinger
Landor	Bizword
BrandEdge	ABC Namebank
Name Stormers	Brains on Fire
Interbrand	Nomenon
Brandthroology	EquiBrand

[credits](#) [founder's bio](#) [old site](#) [garage](#) [subscribe](#) [contact](#) [facebook](#) [twitter](#)

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What we do

We find ways to give brands the same kind of personality and attitude that people have.



- ➡ Product naming
- ➡ Company naming
- ➡ Brand strategy
- ➡ Brand building



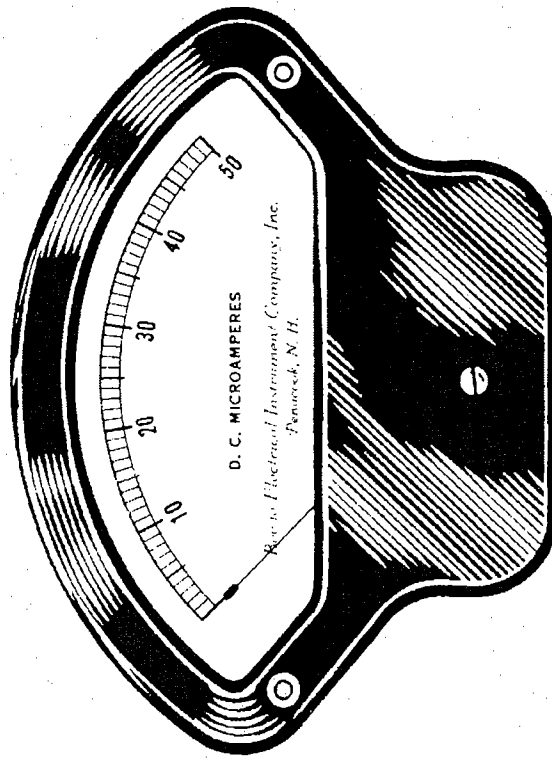
Yes, naming is pretty subjective. That's why you need some help to increase your odds.

- 1 We ask the right questions.
- 2 We help you think about how you are different.
- 3 We drive the process.
- 4 We point out the pitfalls.
- 5 We give you a lot of choices.
- 6 We keep the strong names on the table.
- 7 We get you across the finish line.

We're big on methodology.

- ➡ We have well thought out and effective ways for structuring projects.
- ➡ We have a highly evolved naming process which has been refined over the past 20 years.
- ➡ We subject our names to rigorous outside scrutiny by intellectual property attorneys.

MOVE THE NEEDLE



a hundred monkeys

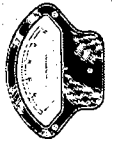
get it right

Naming is a competitive sport. It's your first shot at being different. Don't pick a name that makes you one of the trees in the forest and then spend the rest of your marketing budget trying to stand out. The right name can give you a strong, clear voice in the world. It can support and leverage your brand, and provide you with a deep well for marketing and advertising. Fight the competition, not yourself.



keep it real

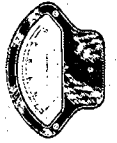
The path to mediocre branding is littered with proprietary processes, fancy terminology and elaborate rationales. They may add a level of reassurance to a project, but the truth is that they are window dressing. There is no substitute for common sense, asking hard questions, and caring deeply about the work.



don't get lost

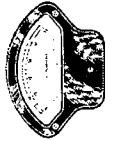
We work with the most powerful technology that has ever been invented: language. We use it to define who you are, why you're here, and what that means to the people you need to reach.

We take that strategy and breathe life into it. When you have a personality and a story that is all your own, you can create marketing that's a tough act to follow. We manage to do all of this without the use of account executives or consultant-speak.



clients

News Corp Timberland Intel IBM Microsoft Herman Miller
Ben+Jerry's Electronic Arts Hewlett-Packard Matchbox Toys
BIC Cablevision Jiffy Lube Swami Chetenananda NetJets
MSNBC Houghton Mifflin Fidelity Investments FAO Schwarz
Apple Computer Ravenswood British Sky Broadcasting
Esprit Peet's Coffee Marvel Comics Amway Lucent AGFA
ABC TV Chevron Nickelodeon WR Hambrecht+Co Panasonic
G.H. Mumm Bianchi Reebok Cole Haan Simon+Schuster



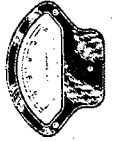
our names

Raindance web conferencing Jamcracker on demand network
delivery Seven wireless network integration Cruel World career
placement services Ruckus wireless home networking Left Field
advertising agency 98point6 personal medical database Freelance
graphic software for Lotus Ironweed subscription film club
Broad Daylight expert q+a on the web Farm-in-a-box mail order
windowsill gardens Calabash division of houghton mifflin Clutch
web architecture and design Doodad shared mailing



our names

Chuckwalla digital asset management All Thumbs home repair videos
Start Here Microsoft Windows tutorial Atomica database software
Hot Potato new media research report "26" typography magazine
for AGFA Warrior Within video game for Ubisoft Felix pc pointing
device Apples+Oranges macintosh database Sweet Dreams Fanny
Farmer candies Red Rocket online playground for Nickelodeon
Rebar global software services Odyssey market research company
Canal Street talent management Jupiter Wells home furnishings



our names

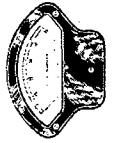
Front Porch nonprofit services for seniors Class Act employee
training program Steelhead wan acceleration appliance Jazz
integrated software for Lotus Rhyme+Reason textile color
system Lucent Titania voltage converters Makoro IBM
data management system Breadbox electronic commerce study
Forward Observer public sector market research Left on Elm
training consultants Open Book bond auction system
Riverbed wan optimization Stoke fixed-mobile convergence



make no mistake

**Why does one chess player play better than another?
The answer is not that the one who plays better makes fewer mistakes. The one who plays better makes more mistakes, by which I mean more imaginative mistakes. He sees more ridiculous alternatives. The mark of a great player is exactly that he thinks of something which by all known norms of the game is an error.**

Jacob Bronowski, The Origin of Knowledge and Imagination



what we do

- | | |
|-----------------------|-----------------------|
| 1. Image Consulting | 7. Creative Direction |
| 2. Brand Analysis | 8. Advertising |
| 3. Brand Strategy | 9. Graphic Design |
| 4. Company Naming | 10. Copywriting |
| 5. Product Naming | 11. Website Design |
| 6. Corporate Identity | 12. Video Production |

Find out more about what we do and how we do it.

www.ahundredmonkeykeys.com t: 415 383 2255

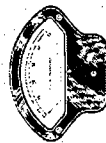


EXHIBIT C

Is your marketing approach tired?

Do you crave fresh creative thinking and measurable results?

100 Monkeys builds campaigns— through the media and through strategic word-of-mouth marketing – that pierce the collective conscious and move people to feel, to connect, and to act. When people feel, connect and act, you win the hearts and minds of consumers. [We invite you to take a closer look >](#)



recent monkey news:

- [100 Monkeys Receives PESA Paragon Award for Launch of Cricket Wireless in Wisconsin](#)
- [100 Monkeys Launches New and Improved Website!](#)
- [100 Monkeys Receives Two Awards at 14th Annual Wisconsin Clarion Awards Banquet](#)
- [100 Monkeys Featured in The Business Journal February 2009](#)

[our story](#)

[what we do](#)

[who we are](#)

[our portfolio](#)

[where to find us](#)

[home](#)

Read about 100 MONKEYS
in the Business Journal

Don't miss out.

SIGN UP HERE to receive news from 100 Monkeys, including info on our newly renovated website coming this spring!

Full name:

e-mail:

[send]

100 Monkeys, Inc. A specialized marketing, communications and public relations agency based in Milwaukee and Madison, Wisconsin. Copyright © 2009

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Our broad menu of services includes:

MEDIA RELATIONS

Press kits, press releases, national, regional and local media pitching, wire service, press tours, web newsrooms, webinars, podcasts ... we do it all to get your story in front of the right editors, reporters and anchors, and thus, the right audience

COMMUNITY RELATIONS

Coordinating partnerships, engaging civic leaders and nonprofit organizations, and reaching out in the community on behalf of clients in meaningful, impactful ways

STRATEGIC MARKETING COMMUNICATIONS PLANNING

Identifying challenges, assessing opportunities and creating strategic plans that we implement to help our clients reach their goals

GRASSROOTS MARKETING PROGRAMS

Word-of-mouth marketing, grassroots promotions and incentives, street team presence and outreach ... we get the masses talking, which is often one of the most effective ways of spreading a client's message

SOCIAL MEDIA PROGRAMS

Whether you need a little help navigating a certain social networking site or you're looking for a complete social media strategy and plan, we can lend our expertise so that you can be sure that you or your company is getting exposure in a way that's cost-effective and beneficial

SPECIAL EVENT PLANNING

From ribbon-cutting ceremonies with city officials to commercial real estate grand openings and open houses to employee appreciation parties and community-wide events, we plan dozens of events each year on behalf of our clients

CRISIS COMMUNICATIONS

Before you say too little or too much, get in touch with our team of crisis communications experts who have years of experience dealing with clients, the media, and the public in crisis situations

SPONSORSHIPS AND PROMOTIONS

Finding the best community partners and making sure that each and every partnership and sponsorship we coordinate hits the right audience, adds value to consumers, and benefits all parties involved

WEB SITE DEVELOPMENT

Brand identity, content creation, copywriting, search engine optimization ... we oversee it all and we make sure to do it in the most timely, cost-effective way possible

NEWSLETTERS, BROCHURES, VIDEOS AND COLLATERAL MATERIALS

With a slew of trusted vendor partners to choose from, we work with the right project partners for the right project for the right price, depending on our clients' needs. No matter who the partner, it's guaranteed the work will be of the highest quality and that we will have had a hand in its creation every step of the way

EXHIBIT D

WILLIAM F. JOHNSON
GLENDON W. MISKEL
NGRID L. CARBONE

LAW OFFICES OF
JOHNSON & MISKEL
2330 MARINSHIP WAY
SUITE 230, MARINA OFFICE PLAZA
SAUSALITO, CALIFORNIA 94965-2800

TELEPHONE (415) 332-0222
FACSIMILE (415) 332-1192
E-MAIL glen@miskel.com

May 19, 2009

CEASE AND DESIST LETTER

Via Fed Ex and Email: mroberts@100monkeyspr.com

Ms. Mary Roberts
100 Monkeys, Inc.
7845 Harwood Avenue
Wauwatosa, WI 53213

RE: A Hundred Monkeys/ahundredmonkeys.com

Dear Ms. Roberts:

This firm represents A Hundred Monkeys, a long established and internationally known marketing, branding and business communication consulting company owned by Mr. Daniel Altman. Since March of 1992, A Hundred Monkeys has been in business using its name and service mark "A Hundred Monkeys" providing services to iconic businesses such as Coca Cola, Apple Computer, Timberland, Reebok, Nike, Hewlett Packard and many others.

The name "A Hundred Monkeys" was registered by Mr. Altman with the United States Patent and Trademark Office on September 21, 1999 and assigned registration No. 2,279,356. A copy of the registration is enclosed. On July 28, 1998, Mr. Altman registered his domain name "ahundredmonkeys.com" and has consistently used both the service mark and the domain name in commerce since then. Accordingly, a public record of his use of the name has existed since 1992 with a registered claim to use of that name since 1998 and 1999.

That name has enormous value and goodwill and identifies "A Hundred Monkeys" uniquely and exclusively as the source of first class services and products to which the name is applied. That is particularly true with respect to the "ahundredmonkeys.com" website and the use of the name "A Hundred Monkeys" in connection with marketing services in the business world. In short, Mr. Altman has long established rights in his "A Hundred Monkeys" name as a trademark.

Mr. Altman has only recently learned that on October 4, 2006, you registered the domain name "100monkeyspr.com" for your relatively new business enterprise. That registration appropriates Mr. Altman's mark. Additionally, your "100monkeyspr.com" Domain Name directs Internet users to an apparently new and active commercial website which incorporates unauthorized uses of the name and mark in a marketing business which directly competes with

CaseAndDesistLtr09May16wpd.wpd

that of Mr. Altman. The competing nature of the use is shown in the "What We Do" portion of your new website where you state that your services include "Brand Identification and Naming," "Strategic Marketing Communications Planning," and other marketing services which are the same as those that have historically been provided by A Hundred Monkeys.

The "Portfolio" portion of your website confirms that you have pursued or engaged with "Major Consumer Brands" as clients, including Coca Cola, which has been a client of A Hundred Monkeys. In short, there is no question that your business directly competes with that of our client, despite his longstanding rights in the name.

According to a November 3, 2006, article in BizTimes.com (copy enclosed), you did not begin your 100 Monkeys venture until sometime in late 2006. Until that time you were "half of the Leum Roberts Inc. public relations team." (See attached article).

You have no legitimate rights or interests in respect of the "100 Hundred Monkeys" name and mark. It is an obvious appropriation of the "A Hundred Monkeys" mark with a different spelling. Additionally, your registration and apparently new use of "100monkeys.com" creates a likelihood of confusion with the "A Hundred Monkeys" mark and the addition of the generic extension ".com" does not negate the confusingly similar aspects of the Domain Name.

Mr. Altman has assured me that A Hundred Monkeys has no relationship whatsoever with you, nor has he given you permission or authorized you to register and use the name or the domain name. Similarly, Mr. Altman informs me that to the best of his knowledge, prior to these infringing acts, you have never previously used or been known by the name "100 Monkeys." Also, the format of your website suggests that you knew, and know, exactly who A Hundred Monkeys was and that the use of 100monkeys.com was specifically for the purpose of creating confusion and improperly exploiting the name and reputation of A Hundred Monkeys.

Similarly, it is clear that the domain name was registered and is being used in bad faith to attract Internet users seeking A Hundred Monkeys' website and products and that you are deriving commercial benefit by appropriating this name. This masquerade usurps Mr. Altman's longstanding rights in his name and mark and prevents his ability to control use of the mark. Therefore, your registration and use of the mark is not a legitimate use and is in bad faith.

By virtue of his preexisting trademark rights in the name, and his long, continuous and prominent use of the A Hundred Monkeys trademark, Mr. Altman has developed strong and exclusive rights in the mark "A Hundred Monkeys." Correspondingly, Mr. Altman has the exclusive right to prevent third parties from using "A Hundred Monkeys" as a trademark in connection with products and services that compete with and are likely to be confused with and infringe on the "A Hundred Monkeys" brand products and services.

Because Mr. Altman's rights in his name and marks are senior to and stronger than yours,

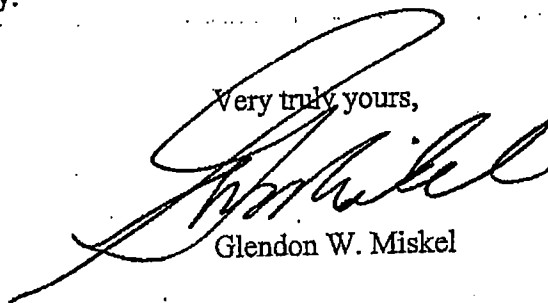
Ms. Roberts
May 19, 2009
Page 3

your use and registration of 100monkeyspr.com is likely to cause consumer confusion and injury to our client's valuable rights. More specifically, your use and registration of the business name "100 Monkeys" and use of the "100monkeyspr.com" website constitutes trademark infringement in violation of the Lanham Act, 15 U.S.C. §1114 and 1125(a), and various U.S., and state trademark infringement laws and constitute unlawful dilution under the Trademark Dilution Act, 15 U.S.C. § 1125(c).

Accordingly, we demand that you immediately and permanently cease and desist from use of any and all trademarks, domain names and business names that incorporate the "A Hundred Monkeys" mark in any form, including 100 Monkeys or any similar name which would likely confuse the public as to its source. We further demand that you immediately withdraw your registration of "100monkeys.com."

Please confirm in writing that you will comply with these demands by no later than Monday, June 1, 2009. This letter is written without prejudice to and shall not be deemed a waiver of any of Mr. Altman's rights, remedies or defenses, all of which expressly are preserved. Please be guided accordingly.

Very truly yours,



Glendon W. Miskel

GWM/tmm
Encl.

cc: Danny Altman

C:\CaseAndDesist\100May16wpd.wpd

From: Origin ID: SRFA (415) 332-0222
 Glendon Miskel
 JOHNSON and MISKEL
 2330 MARINSHIP WAY SUITE 230
 SAUSALITO, CA 94965



Ship Date: 19MAY08
 Act/Wgt: 0.5 LB
 CAD: 1715362/NETB011
 Account#: S

Delivery Address Bar Code



SHIP TO: (415) 332-0222
 Ms. Mary Roberts
 100 Monkeys, Inc.
 7845 HARWOOD AVE

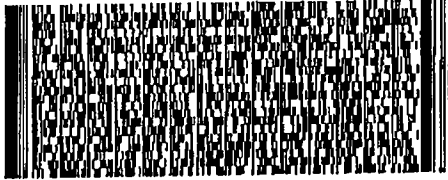
BILL SENDER

WAUWATOSA, WI 53213

Ref # A Hundred Monkeys
 Invoice #
 PO #
 Dept #

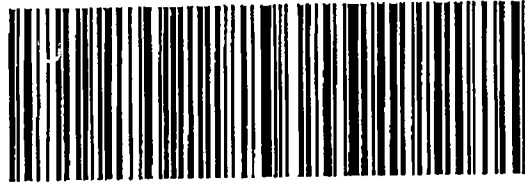
TRK# 7966 2094 1958
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